

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Inquiry Concerning the Deployment of)
Advanced Telecommunications)
Capability to All Americans in a Reasonable)
and Timely Fashion, and Possible Steps)
to Accelerate Such Deployment Pursuant to)
Section 706 of the Telecommunications Act)
of 1996)

CC Docket 98-146

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OFFICE OF THE SECRETARY

**REPLY COMMENTS OF
WILLIAMS COMMUNICATIONS, INC.**

I. INTRODUCTION

Over seventy parties filed comments in the instant proceeding, representing a wide range of interests and perspectives. Despite these differences, the comments as a whole make it apparent that, in order to promote the availability of advanced services, the Commission should facilitate the deployment of advanced telecommunications facilities. This infrastructure should not only be capable of supporting existing advanced services, but sufficient to provide "massive quantities of bandwidth" in order to "spur demand for services that have not even been imagined yet."¹

In contrast to the emphasis in many of the comments on ILEC regulation, Williams Communications, Inc. ("Williams") respectfully submits the following reply

¹ See Comments of Qwest Communications Corporation at 3.

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comments to address other important issues raised by the parties relating to deployment of advanced facilities.²

II. THE COMMISSION SHOULD MINIMIZE PAROCHIAL BARRIERS TO DEPLOYMENT OF ADVANCED TELECOMMUNICATIONS INFRASTRUCTURE

In 1877, when the telegraph, rather than the Internet and high-speed data lines, played a central role in the U.S. economy, the Supreme Court noted that the:

telegraph marks an epoch in the progress of time. In a little more than a quarter of a century it has changed the habits of business, and become one of the necessities of commerce. It is indispensable as a means of inter-communication, but especially is it so in commercial transactions.³

With these facts in mind, the Court stated that “it is not only the right, but the duty, of Congress to see to it that . . . the transmission of intelligence [is] not obstructed or unnecessarily encumbered by State legislation.”⁴

In an era when telecommunications is much more important to the social and economic welfare of the nation than in 1877, Congress has fulfilled this duty by delegating broad authority to the Commission in the Telecommunications Act. Accordingly, the Commission has an obligation to ensure that state and local laws and practices, such as those set forth in the parties’ comments, do not impede the provision of advanced telecommunications services.

² Williams addressed ILEC regulation in its comments filed in CC Docket No. 98-147.

³ *Pensacola Telegraph Co. v. Western Union Telegraph Co.*, 96 U.S. 1, 9 (1877).

⁴ *Id.*

Teligent, Inc. and Williams are engaged in very different segments of the telecommunications industry. Teligent provides local advanced services using wireless technologies while Williams employs intercity fiber optic systems to transmit advanced services.

However, Williams, like Teligent, has observed that “across the country, some governmental units are using their legitimate statutory authority to manage public rights-of-ways as a guise for generating revenue or regulating entry.”⁵ Litigation of the resulting disputes represents a “tragic waste of resources”⁶ and the diversion of funds to local governments absorbs funds that carriers could otherwise use to deploy advanced facilities.⁷ Teligent and other parties⁸ provide further evidence of the need for Commission action to curb such abuses, as Williams proposed in its comments.⁹ The Commission must not allow parochial interests to block or burden the provision of either local or intercity advanced telecommunications services.¹⁰

⁵ Comments of Teligent, Inc. at 34; *accord* Comments of the Personal Communications Industry Association at 41 (“For many governmental bodies, telecommunications providers . . . are viewed as a source of significant funds – a veritable cash cow.”).

⁶ Comments of Teligent, Inc. at 35.

⁷ Comments of the Personal Communications Industry Association at 41.

⁸ *Id.*; Comments of Comcast Corporation at 4.

⁹ Comments of Williams Communications, Inc. at 8-13.

¹⁰ *Cf.* Comments of Comcast Corporation at 4 (“the Commission should consider using its preemption and forbearance powers to ensure that . . . the deployment of advanced telecommunications capability is not hindered by unduly aggressive efforts by some local authorities to regulate new facilities-based providers.”).

III. THE COMMISSION SHOULD FACILITATE USE OF STATE CONDEMNATION LAWS

WinStar Communications, Inc., another provider of advanced local telecommunications services via wireless technologies, highlights problems with using state condemnation authority.¹¹ While WinStar has experienced problems in a completely different context from that faced by intercity carriers such as Williams, the obstacles it faces (delays, procedural difficulties, substantial expenses) are similar to those other nontraditional telecommunications companies encounter. WinStar's comments accentuate the need for Commission action to facilitate use of state condemnation laws, as Williams has proposed.¹²

IV. CONCLUSION

In its comments, Williams proposed a number of ways in which the Commission can assist private industry in its deployment of facilities necessary to carry existing and future advanced telecommunications services. Comments filed by other parties indicate that some of the most significant problems Williams encounters affect other industry segments. Those comments reinforce Williams' recommendations that the Commission act to reduce local barriers to infrastructure development and to allow more effective use of state condemnation laws.

¹¹ Comments of WinStar Communications, Inc. at 15.

¹² Comments of Williams Communications, Inc. at 13-16. Williams proposed that the Commission adopt voluntary, expedited Section 214 certification procedures for interstate carriers and issue a statement discussing the importance of fiber optic deployment. *Id.* at 14-15. A Commission statement specifically designating fiber optic technology (rather than a concept as difficult to define as advanced telecommunications facilities) as important to infrastructure development would of great use to carriers such as Williams. Similar Commission statements relating to other advanced technologies may also be warranted and useful.

WILLIAMS COMMUNICATIONS, INC.

A handwritten signature in dark ink, appearing to read "Joe W. Miller", is written over a horizontal line.

David P. Batow
Joseph W. Miller
William H. Gault

Dated: October 8, 1998

Its Attorneys

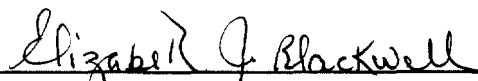
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CERTIFICATE OF SERVICE

I, Elizabeth J. Blackwell, do hereby certify that on October 8, 1998, a copy of the foregoing "Reply to Oppositions to the Petition for Reconsideration and Clarification of Williams Communications, Inc." was mailed by U.S. first class mail, postage prepaid, to the parties listed on the attached service list.


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